

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 332 of 1985

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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MEMON IBRAHIM HAJI ABDUL

Versus

DHORAJI AREA DEVL.P. AUTHORITY & ORS.

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Appearance:

MR DM THAKKAR for Petitioner  
MR RN CHHAYA for Respondent No.1 & 2  
MR SAMIR DAVE for Respondent No.3 & 4

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 24/09/96

ORAL JUDGMENT

Heard learned counsel for the parties. The petitioners are the owners of land comprising in Survey Nos.767, 768 and 774. The final development plan for the town of Dhoraji was sanctioned vide Government Notification, Panchayat and Health Department, dated 11th July 1975, under the provisions of the Bombay Town Planning & Urban Development Act, 1954. Vide

Notification dated 30th January 1978, the area within the municipal limits of Dhoraji was declared as development area under the provisions of the Gujarat Town Planning Act, 1976 (hereinafter referred to as the Act). Under the same Notification, Dhoraji Municipality was designated as the Area Development Authority under the Act. The land of the petitioner aforesaid alongwith other lands adjoining thereto in the area were designated in the industrial Zone in the final development plan under the Act. The Dhoraji Municipality, as the Area Development Authority forwarded proposal to the State Government for variation in the final development plan of Dhoraji so as to designate the entire area, namely Survey Nos. 766, 767 and 768 and some other survey numbers, as residential zone instead of industrial zone. Under the document annexure 'C' dated February 84, the Notification of the Government of Gujarat, Urban Development & Urban Housing Department, variation as proposed in the final plan has been considered and only the land bearing Survey Nos. 776, 766 etc. have been released from designation of industrial use and designated for residential purpose, meaning thereby the petitioner's land was not designated as residential in the final development plan. This Notification annexure 'C' has been challenged by the petitioner before this Court in this Special Civil Application.

2. The learned counsel for the petitioner admitted that representation has been made by the petitioner's father against the notification dated February 1984, annexure 'C', under which the variation has been proposed in the final sanction plan from designating the land of the petitioner for industrial use to the residential use. The Final Notification has been issued on 4th December 1986 and variation has been sanctioned to the extent that the land of the petitioner bearing Survey Nos. 767 and 774 have been designated for residential use under Section 12(2)(a) of the Act 1976. So substantial relief has been granted to the petitioner. The Notification dated 4th December 1986 has not been challenged by the petitioner in this Special Civil Application. The challenge to the earlier notification annexure 'C', in view of subsequent development, now does not survive. Otherwise also, I fail to see any justification in the grievance of the petitioner that the land in Survey No. 768 should have also been designated as residential land. It is for the authority to decide which land should be designated for what purpose and not for the petitioner or this Court. From the Notification dated 4th December 1986, copy of which has been filed on record by the learned counsel for the respondent, it is clear

that respondents have acted very fairly and reasonably and the matter has been considered objectively.

3. In view of the subsequent Notification dated 4th December 1986, which is also not challenged by the petitioner, and the subsequent events which have taken place, nothing now survives in this Special Civil Application. The very fact that the petitioner has not challenged the Notification dated 4th December 1986 makes it out that the petitioner was not aggrieved of that Notification, meaning thereby, the petitioner was satisfied with this Notification which includes the decision of the respondent not to designate the land of Survey No.768 of the petitioner as residential land. In the result, this Special Civil Application fails and the same is dismissed. Rule discharged. No order as to costs.

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(sunil)